

STATE OF MICHIGAN  
COURT OF APPEALS

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In the Matter of ANTWAIN JOHNSON, JR., and  
AY’JANA WILLIAMS, Minors.

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DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

SHANTLE BURKETT,

Respondent-Appellant.

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UNPUBLISHED

November 21, 2006

No. 268075

Genesee Circuit Court

Family Division

LC No. 03-116213-NA

Before: White, P.J. and Zahra and Kelly, JJ.

PER CURIAM.

Respondent appeals as of right from the trial court order terminating her parental rights to the two minor children under MCL 712A.19b(3)(c)(i), (g), and (j). We affirm.

The trial court did not clearly err by finding at least one statutory ground for termination of respondent’s parental rights was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The primary condition of adjudication was respondent’s neglect of the children by leaving them home alone at the ages of one and three years. Much evidence suggested that respondent mother’s propensity to neglect the children continued to exist. Throughout this matter, she has continued to neglect the children by failing to consistently visit them. In the ten months of 2003 that the children were under court jurisdiction, respondent had 14 visits with the children, 21 no-shows, and four cancellations. Respondent failed to visit the children for nearly three months in 2005, from May to August (when her visits were suspended), because, according to her own testimony, she was going through a “situation” and did not want the children to see her like that. Given respondent’s poor compliance with the parent-agency agreement, especially its requirement for drug screens and treatment, the trial court was amply justified in concluding that there was no reasonable likelihood that respondent would rectify her propensity for neglecting the children within a reasonable time considering their ages. MCL 712A.19b(3)(c)(i).

Evidence that respondent left her children home alone at the ages of one and three establishes that she failed to provide proper care and custody for them. The same evidence demonstrating that there is no reasonable likelihood that the conditions of adjudication would be rectified within a reasonable time equally demonstrates that there was no reasonable likelihood

that respondent would be able to provide proper care and custody for the children within a reasonable time MCL 712A.19b(3)(g). We note that respondent did comply with some aspects of the parent-agency agreement, by taking parenting classes and anger management classes, and participating in a psychological evaluation. However, her failure to comply with other critical aspects of the agreement, including visiting the children, providing drug screens, participating in drug treatment, and obtaining housing and employment, are evidence of her inability to provide proper care and custody for the children. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003).

Respondent argues on appeal that she was not provided adequate services directed toward reunification, a contention that is relevant to the sufficiency of the evidence for termination of parental rights. See *In re Newman*, 189 Mich App 61, 66-69; 472 NW2d 38 (1991). Specifically respondent contends that she was supplied no drug screens after May 2005. The record is not entirely clear concerning whether respondent received drug screens after this date; but it clearly appears that, if she did not, this was a result of respondent's own failure to keep in touch with the caseworker and keep her apprised of her current residence. Under these circumstances, respondent's claim that she was provided no screens after May 2005 does not undercut the adequacy of the evidence for the termination of her parental rights. Respondent also claims that the agency did not reasonably accommodate her mental illness. However, since respondent or her counsel did not request accommodation in the lower court, this issue is not preserved for appeal. *In re Terry*, 240 Mich App 14, 26; 610 NW2d 563 (2000). In any event we note that the agency did provide respondent with multiple referrals for a psychological evaluation, which resulted in referrals for individual therapy and substance abuse counseling, which respondent did not complete. Particularly in light of respondent mother's failure to request accommodation during the proceedings in the trial court, we are not persuaded that the agency failed to make reasonable efforts toward reunification.

Termination under MCL 712A.19b(3)(j) was also not clearly erroneous. The conduct that led to adjudication in this matter, leaving an infant and a child of three years alone in the home, is conduct that is reasonably likely to cause harm to the children. Since there was no evidence that respondent's propensity to neglect the children was rectified, the children would be exposed to similar risk if returned to respondent.

Finally, the trial court did not clearly err by finding that termination was not clearly contrary to the best interests of the children. MCL 712A.19b(5). This matter was allowed to continue in the trial court for more than two and one half years, the greater part of Antwain's lifetime and almost half of Ay'Jana's lifetime, without substantial progress by respondent. Respondent continued to lack the ability to provide permanency or stability for the children, having failed to participate in drug treatment and lacking housing for the children. On this record there is no basis to conclude that termination was clearly contrary to the best interests of the children.

Affirmed.

/s/ Helene N. White  
/s/ Brian K. Zahra  
/s/ Kirsten Frank Kelly